



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 5, 1998

Mr. Edward J. Fields, Jr.  
Attorney at Law  
8333 Douglas Avenue, Suite 975  
Dallas, Texas 75225

OR98-0023

Dear Mr. Fields:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 111537.

The City of Rhome (the "city"), which you represent, received six requests for the current list of all regular and reserve police officers for the City of Rhome, their certificate numbers and "background check" information. In addition to this information, one requestor asked for the "application and grants for the Federal Cop program" and the "application for the charter for the police dept. filed by the City." You state that most of the information will be made available to the requestors. You claim, however, that the remaining information is excepted from disclosure under sections 552.101, 552.108, and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.117 of the Government Code provides that information is excepted from disclosure if it relates to a peace officer's home address, home telephone number, social security number, or reveals whether the peace officer has family members. *Cf.* Open Records Decision Nos. 622 (1994) (section 552.117 excepts from disclosure former home addresses and former home telephone numbers), 455 (1987). You inform us that an officer's social security number also serves as his license number. Thus, you must withhold the licence numbers of the officers pursuant to section 552.117. Please note, however, that birth dates are not protected under section 552.117. Therefore, the city may not withhold an officer's birth date from public disclosure.

Next, you seek to withhold "background check" information pursuant to section 552.101. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 also encompasses information protected by other statutes. You state that the requested

"background information" consists of a computerized criminal history of the officer which is obtained from the databases of the Texas Department of Public Safety and the Federal Bureau of Investigations. Federal regulations prohibit the release of criminal history record information ("CHRI") maintained in state and local CHRI systems to the general public. *See* 28 C.F.R. § 20.21(c)(1) ("Use of criminal history record information disseminated to noncriminal justice agencies shall be limited to the purpose for which it was given."), (2) ("No agency or individual shall confirm the existence or nonexistence of criminal history record information to any person or agency that would not be eligible to receive the information itself."). Section 411.083 provides that any CHRI maintained by the Department of Public Safety ("DPS") is confidential. Gov't Code § 411.083(a). Similarly, CHRI obtained from DPS pursuant to statute is also confidential and may only be disclosed in very limited instances. *Id.* § 411.084; *see also id.* § 411.087 (restrictions on disclosure of CHRI obtained from DPS also apply to CHRI obtained from other criminal justice agencies). Therefore, any CHRI that falls within the ambit of these state and federal regulations must be withheld from the requestors.

Finally, you seek to withhold certain confidential law enforcement numbers under section 552.108. Section 552.108 provides in pertinent part:

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution. . . .

You state that these confidential numbers are used internally by law enforcement agencies in identifying themselves to each other. Furthermore, you have demonstrated that release of this information will interfere with law enforcement. Therefore, you may withhold these numbers from required public disclosure.

We also note that the Seventy-fifth Legislature added section 552.130 to the Open Records Act which governs the release and use of information obtained from motor vehicle records. Section 552.130 provides in relevant part as follows:

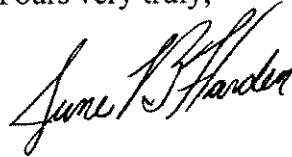
(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state[.]

Gov't Code § 552.130. We have marked the information which you must withhold pursuant to section 552.130.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/alg

Ref.: ID# 111537

Enclosures: Marked documents

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